

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MICHAEL J. SMITH,

*Plaintiff,*

vs.

BRIAN WILLIAMS, *et al.*

*Defendants.*

2:10-cv-00632-JCM-PAL

ORDER

This prison civil rights action comes before the court for initial review of the amended complaint (#8) pursuant to 28 U.S.C. § 1915A.

Following upon initial review, the court will order service and a response. The complaint, as amended, has been screened. The amended pleading substantially corrects the deficiencies identified in the prior screening order (#4), with the exception noted below.

It is not clear that plaintiff still is seeking to pursue claims against the State of Nevada. He includes the state in the caption but not in the list of defendants. The clerk still carries the state as a defendant on the docket sheet, and the state clearly is immune from suit as outlined in the screening order. The court therefore will dismiss all claims against the state without prejudice for lack of jurisdiction due to state sovereign immunity.

The court notes that plaintiff refers in the body of the amended complaint to an “exhibit A” that is not attached with the pleading. The amended complaint in any event identifies the pertinent gist of the report and does not seek to incorporate the report by reference. Any deficiency in referring to an exhibit that is not attached is not one of substance.

1 The court accordingly directs service and a response.

2 IT THEREFORE IS ORDERED that all claims against the State of Nevada are  
3 DISMISSED without prejudice for lack of jurisdiction due to state sovereign immunity, leaving  
4 plaintiff's claims against defendants Williams and Tate before the court.

5 IT FURTHER IS ORDERED that the clerk of court shall add attorney general Catherine  
6 Cortez Masto as counsel for defendants and shall make informal electronic service of this  
7 order together with an attachment containing the pleadings and the prior screening order (*i.e.*,  
8 ## 4, 5 & 8) upon defendants via a notice of electronic filing, to the attention of Pamela Sharp.

9 IT FURTHER IS ORDERED that the attorney general shall advise the court within  
10 twenty-one (21) days from the date that this order is entered whether she can accept service  
11 of process for the named defendants. As to any of the named defendants for which the  
12 Attorney General cannot accept service, the Attorney General shall file, under seal, the last  
13 known address(es) of those defendant(s). Any defendants for whom service is accepted shall  
14 file an answer or otherwise respond to the amended complaint (#6) within thirty (30) days of  
15 the date of the notice of acceptance of service.

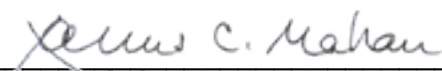
16 IT FURTHER IS ORDERED that, if service cannot be accepted by the attorney general  
17 for a named defendant, then plaintiff must file a motion requesting the issuance of a  
18 summons and specifying a full name and address for the defendant. Service must be  
19 completed within one hundred twenty (120) days from the attorney general's service of a  
20 statement that she will not be able to accept service for the defendant.

21 IT FURTHER IS ORDERED that, henceforth, plaintiff shall serve upon defendants or,  
22 if an appearance has been entered by counsel, upon their attorney(s), a copy of every  
23 pleading, motion or other document submitted for consideration by the court. Plaintiff shall  
24 include with the original paper submitted for filing a certificate stating the date that a true and  
25 correct copy of the document was mailed to the defendants or counsel for defendants. If  
26 counsel has entered a notice of appearance, plaintiff shall direct service to the individual  
27 attorney named in the notice of appearance, at the address stated therein. The court may  
28 disregard any paper received by a district judge or magistrate judge which has not been filed

1 with the clerk, and any paper received by a district judge, magistrate judge or the clerk which  
2 fails to include a certificate showing proper service.

3 The clerk shall send an additional copy of the amended complaint (#8) to plaintiff with  
4 this order.

5 DATED April 27, 2011.

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9 JAMES C. MAHAN  
United States District Judge